

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:14-cv-243-FDW-DCK

LIBERTY MUTUAL,)	
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
UTILIPATH, LLC et al.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court after a hearing held on January 5, 2015 before the undersigned on several pending motions and matters in the above captioned case. Based on the motions and argument heard from counsel in open court, the Court finds the following:

1. The Individual Defendants' Motion for Entry of Judgment and Stay of Enforcement Pursuant to Rule 62 (Doc. No. 87) is DENIED for the reasons set forth in open court.

2. The Defendants' outstanding collateral obligation to Liberty Mutual has been initially met, as Defendants Baxter McLindon Hayes, III and Jarrod Hayes wired the remaining amount of collateral (\$532,000) to Plaintiff Liberty Mutual via the trust account of William Sturges.

3. If and when Plaintiff intends to move the collateral from counsel's trust account to the operating account of Liberty Mutual, or from the operating account of Liberty Mutual to make payments on bonded claims, the Plaintiff must give the court and counsel for all Defendants seven (7) calendar days' notice, informing the Court and the parties of the nature of the transfer.

4. If and when Plaintiff Liberty Mutual makes a demand for more collateral under the Indemnification Agreement, the Court will receive further briefing from the Defendants as to the apportionment of liability.

5. The Defendants are now required to engage in an expedited mediation of the remaining counterclaims.

6. If mediation fails, the Defendants are allowed and encouraged to engage in discovery in furtherance of the settlement of remaining counterclaims.

7. The counterclaims will proceed to trial for the trial term beginning March 2, 2015.

8. The Individual Defendants are no longer required to be present at any hearings unless or until the hearings are on dispositive motions, in which case a party representative is obliged to attend based on the undersigned's Standing Order.

IT IS SO ORDERED.

Signed: January 6, 2015

A handwritten signature in black ink, reading "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

